

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSE ALBERTO MORENO,	:	CIVIL ACTION NO. 1:05-CV-0565
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
MICHAEL CHERTOFF, Secretary, United States Department of Homeland Security,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 25th day of July, 2005, upon consideration of the report of the magistrate judge (Doc. 16), to which no objections were filed, recommending that the above-captioned case be transferred pursuant to amendments to 8 U.S.C. § 1252 enacted on May 11, 2005, as part of the Real ID Act of 2005, Pub. L. No. 109-13, § 106, 119 Stat. 231, 310-11, stating that, “[i]f a alien’s case, brought under [28 U.S.C. § 2241] and challenging a final administrative order of removal, . . . is pending in a district court on the date of the enactment of this division, then the district court *shall* transfer the case . . . to the court of appeals for the circuit in which a petition for review could have been properly filed under [8 U.S.C. § 1252(b)(2)],” see Real ID Act § 106, 119 Stat. at 310-11 (emphasis added), and it appearing that petitioner is an alien¹ (Doc. 5), see 8 U.S.C. § 1101(a)(3), that the above-captioned case was brought under 28 U.S.C. § 2241, challenges a final

¹ The petition for writ of habeas corpus indicates that petitioner’s alien identification number is A 28 812 701. (Doc. 5).

administrative order of removal, and was pending in this court on May 11, 2005 (Doc. 5), see 28 U.S.C. § 2241; INS v. St. Cyr, 533 U.S. 289, 314 (2001), and that a petition for review of the final administrative order of removal under 28 U.S.C. § 1252(b)(2) could have been properly filed in the United States Court of Appeals for the Second Circuit, as “the court of appeals for the judicial circuit” encompassing Fishkill, New York., where “the immigration judge completed the proceedings” (Doc. 15; see also Doc. 5), see 28 U.S.C. § 1252(b)(2), it is hereby ORDERED that The report and recommendation of the magistrate judge (Doc. 16) is ADOPTED as follows:

1. The motion to transfer (Doc. 12) is GRANTED. See Real ID Act § 106, 119 Stat. at 310-11.
2. The Clerk of Court is directed to TRANSFER the above-captioned case, to be identified as a “petition for review,” to the United States Court of Appeals for the Second Circuit. See id.
3. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge